

1 **Article 3.**

2 **Procedure Generally.**

3 **§ 12-15- . [GP] Duties of intake officers.**

4 **A person appointed by the court as an intake officer shall perform the following duties:**

5 (1) Receive and examine written complaints, made under oath, of delinquency, in need of
6 supervision or dependency for the purpose of considering the commencement of proceedings
7 under this chapter.

8 (2) Refer complaints and allegations of dependency, and if appropriate, in need of
9 supervision, to the Department of Human Resources for investigations, reports, and
10 recommendations.

11 **§ 12-15-50. [GP] Cases initiated by filing of petitions by intake officers.**

12 Original delinquent, child in need of supervision and dependent cases~~Cases~~ before the court shall
13 be initiated by the filing of a petition by the intake officer who shall receive verified complaints
14 and proceed thereon pursuant to rules of procedure adopted by the Supreme Court of Alabama.

15 **§ 12-15-51. [GP] Informal adjustment of certain cases prior to filing of petition.**

16 Before a petition alleging delinquency or in need of supervision is filed, the ~~probation-intake~~
17 ~~officer, or other officer of the court designated by it,~~ subject to ~~its~~ the court's direction, may give
18 counsel and advice to the parties for the purpose of an informal adjustment pursuant to rules of
19 procedure adopted by the Supreme Court.

20 **§ 12-15-52. [GP] Form, contents and execution of petitions.**

21 (a) A juvenile petition alleging delinquency, child in need of supervision or dependency may
22 be signed by any person 18 years of age or older who has knowledge of the facts alleged or is
23 informed of them and believes that they are true. However, the person signing a dependency

petition must, in the petition or in an attached affidavit, give information, if reasonably ascertainable, as required in Section 30-3B-209.

(b) A petition shall be entitled "In the matter of ..., a child" and shall be ~~verified by the person who signs it~~made under oath.

(c) The petition shall set forth with specificity:

(1) The facts which bring the child within the jurisdiction of the court, the facts constituting the dependency, delinquency or need of supervision and that the child is in need of supervision, treatment, rehabilitation, care or the protection of the state, as the case may be;

(2) The name, age and residence address, if any, of the child on whose behalf the petition is brought;

(3) The names and residence addresses, if known to the petitioner, of the parents, guardian or custodian of the child. If no parent, guardian or custodian resides or can be found within the state or if their respective places of residence are unknown, the name of any known adult relative residing within the district or, if there be none, the known adult relative residing nearest to the location of the court; and

(4) The place of the child's detention and the time he was taken into custody, if the child in custody is delinquent ~~or in need of supervision.~~

(d) When any of the facts required by subsection (c) of this section are not known, except the facts required by subdivision (4) of subsection (c) of this section, the petition shall so state.

§ 12-15-53. [GP] Issuance and service of summonses generally; ~~endorsements upon summonses;~~ waiver of service of summonses.

(a) After a petition alleging delinquency, in need of supervision or dependency has been filed, the court shall direct the issuance of summonses, one to be directed to the child if the child

1 is 12 or more years of age, another to the parents, guardian, or other custodian and others to such
2 other persons as appear to the court to be proper or necessary parties to the proceedings,
3 requiring them to appear personally before the court at the time fixed to answer or testify as to
4 the allegations of the petition. Where the custodian is summoned, the parent or guardian, or both,
5 shall also be served with a summons.

6 (b) A copy of the petition shall be attached to each summons.

7 (c) The ~~court may endorse upon the~~ summons an order directing shall direct the parents,
8 guardian, or other custodian having the custody or control of the child to bring the child to the
9 hearing.

10 ~~(d) If it appears from an affidavit or sworn statement presented to the court that the child~~
11 ~~needs to be placed in detention or shelter or other care, the court may endorse upon the summons~~
12 ~~an order that an officer serving the summons shall at once take the child into custody and take~~
13 ~~the child to the place of detention or shelter or other care designated by the court. In any case~~
14 ~~where a child is alleged to be delinquent for possessing a pistol, short barreled rifle, or short~~
15 ~~barreled shotgun, the child shall be detained in a detention facility until the hearing required by~~
16 ~~Section 12-15-60. "Pistol" as used in this section is defined in Section 13A-11-70(1). "Short-~~
17 ~~barreled rifle and short barreled shotgun" as used in this section are defined in Section 13A-11-~~
18 ~~62.~~

19 (ed) A party, other than the child, may waive service of summons by written stipulation or by
20 voluntary appearance at the hearing.

21 § 12-15-54. [GP] Manner of service of summons.

22 Service of summons in cases coming within this chapter shall be pursuant to rules of procedure
23 adopted by the Supreme Court of Alabama.

1 | § 12-15-55. **[GP]** Authority of court to make interlocutory or final dispositional orders in
2 | cases where parties served by publication.

3 | The court shall have authority to make interlocutory and final dispositional orders in those cases
4 | in which a party or parties have been served by publication in accordance with rules adopted by
5 | the Supreme Court.

6 | § 12-15-56. **[GP]** Taking into custody of children generally.

7 | A child may be taken into custody:

8 | (1) Pursuant to an order of the court ~~under Sections 12-15-53 and 12-15-57;~~

9 | (2) For a delinquent act pursuant to the laws of arrest;

10 | (3) By a law enforcement officer having reasonable grounds to believe that the child has run
11 | away from a detention, residential, shelter or other care facility;

12 | (4) By a law enforcement officer or a representative of the Department of Human Resources
13 | having reasonable grounds to believe that the child is suffering from illness or injury or is in
14 | immediate danger from the child's surroundings and that the child's immediate removal from
15 | such surroundings is necessary for the protection of the health and safety of such child;

16 | (5) By a law enforcement officer or a representative of the Department of Human Resources
17 | who has reasonable grounds to believe that the child has run away from his parents, guardian or
18 | other custodian;

19 | (6) By a law enforcement officer or a representative of the department of Human Resources
20 | who has reasonable grounds to believe that the child has no parent, guardian, custodian or other
21 | suitable person willing and able to provide supervision and care for such child;

22 | (7) By a probation officer or representative of the Department of Human Resources, pursuant
23 | to Section 12-15-7; ~~or.~~

~~(8) By a law enforcement officer pursuant to an order of the court directing that a child be taken into custody pending hearing on allegations that the child is suffering from illness or injury or is in immediate danger from his surroundings and ordering that the child's immediate removal from such surroundings is necessary for the protection of the health and safety of such child.~~

§ 12-15-57. [GPI] Issuance of pick-up order for taking into custody ~~and bringing before court of child upon failure of parents, etc., to bring child before court upon request.~~

~~If a parent, guardian or other custodian fails, when requested, to bring the child before the court as provided in subdivision (2) of subsection(a) of Section 12-15-58, the court may issue its order directing that the child be taken into custody and brought before the court. If it appears from a sworn statement, written or oral, presented to the court that the child needs to be placed in detention or shelter or other care, the court may issue a pick-up order that a law enforcement officer shall at once take the child into custody and take the child to the place of detention or shelter or other care designated by the court.~~

§ 12-15-58. [GPI] Release, delivery to detention or shelter care facility, medical facility, etc., of children taken into custody generally.

(a) A person taking a child into custody without an order of the court shall, with all possible speed, and in accordance with this chapter and the rules of court pursuant thereto:

(1) Release the child to the child's parents, guardian, custodian or other suitable person able and willing to provide supervision and care for the child and issue oral counsel and warning as may be appropriate.

(2) Release the child to the child's parents, guardian or custodian upon their promise to bring the child before the court when requested, unless the child's placement in detention or shelter care appears required. If a parent, guardian or other custodian fails, when requested,

1 to bring the child before the court as provided in this section, the court may issue an order
2 directing that the child be taken into custody and brought before the court.

3 (3) Bring the child, if not released, to the ~~intake office of probation services or deliver the~~
4 ~~child to a place of detention or shelter care~~ place designated by the court and ~~, in the most~~
5 ~~expeditious manner possible,~~ give written notice of the action taken and, ~~together with a~~
6 ~~statement of~~ the reasons for taking the child into custody ~~, in writing~~ to the intake
7 ~~office~~ officer, ~~to the court and~~ to the parent, guardian or other custodian of the child and, in
8 the case of dependency, to the Department of Human Resources ~~, except in the case of a~~
9 ~~juvenile being taken into custody for a violation of a municipal curfew ordinance. In curfew~~
10 ~~violation cases, if the child is not released, the child may be taken to a facility which has been~~
11 ~~previously approved by the court as a curfew detention facility. A child taken to a curfew~~
12 ~~detention facility shall be released within eight hours.~~

13 (b) ~~Whenever a child, taken into custody pursuant to this chapter, is brought to a shelter or~~
14 ~~other care facility established or approved by the Department of Human Resources or the~~
15 ~~Department of Youth Services or to the intake office, the person in charge of the intake office or~~
16 ~~the representative of the Department of Human Resources, prior~~ Prior to admitting the child for
17 care, the intake officer on an allegation of delinquency or in need of supervision, or a
18 representative of the Department of Human Resources on an allegation of dependency, shall
19 review the need for detention or shelter care and shall release the child unless detention or shelter
20 care is required under Section 12-15-59 ~~or has been ordered by the court.~~

21 ~~(c) A person taking a child into custody pursuant to subdivisions (1) and (7) of Section 12-~~
22 ~~15-56 shall bring the child to the place of detention or shelter care or to the intake office which~~
23 ~~shall thereupon proceed in accordance with this chapter.~~

~~(d) A person taking a child into custody pursuant to subdivision (4) of Section 12-15-56 shall bring the child to a medical or mental health facility designated by the court if the child is believed to be suffering from a serious mental health condition, illness, or injury which requires either prompt treatment or prompt diagnosis for the child's welfare or for evidentiary purposes, and, in the most expeditious manner possible, give notice of the action taken together with a statement of taking the child into custody in writing to the court, the parents, guardian or other custodian and to the intake office and to the Department of Human Resources in the case of a dependency allegation.~~

§ 12-15-59. [GPI] Authority and criteria for continuation of detention or shelter care of children taken into custody.

(a) Unless otherwise ordered by the court pursuant to the provisions of this chapter, a child lawfully taken into custody as an allegedly dependent or delinquent child or a child in need of supervision shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such child's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child, except in situations where:

(1) The child has no parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child;

(2) The release of the child would present a clear and substantial threat of a serious nature to the person or property of others where the child is alleged to be delinquent;

(3) The release of such child would present a serious threat of substantial harm to such child; or

(4) The child has a history of failing to appear for hearings before the court.

(5) In any case where a child is alleged to be delinquent for possessing a pistol, short-barreled rifle, or short-barreled shotgun, the child shall be detained in a detention facility

until the hearing required by Section 12-15-60. "Pistol" as used in this section is defined in Section 13A-11-70(1). "Short-barreled rifle and short-barreled shotgun" as used in this section are defined in Section 13A-11-62.

(b) The criteria for continuing the child in detention or shelter or other care as set forth in subsection (a) of this section shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition and such criteria shall be supported by clear and convincing evidence in support of the decision not to release the child.

§ 12-15-60. IDEL Filing of petition and conduct of hearing as to necessity for continuation of detention or shelter care of a child alleged to be delinquent or in need of supervision.

(a) When a child is not released from detention or shelter care as provided in Section 12-15-58, a petition shall be filed and a hearing held within 72 hours, Saturdays, Sundays and holidays included, to determine that the child committed the act alleged and whether or not continued detention or shelter care is required.

(b) Notice of the detention or shelter care or other care hearing, either oral or written, stating the time, place and purpose of the hearing and the child's right to counsel shall be given to the parent, guardian or custodian if they can be found and to the child if such child is over 12 years of age or if delinquency is alleged. ~~In every case of a dependent child, the Department of Human Resources shall be notified.~~

(c) At the commencement of the detention or shelter or other care hearing, the court shall advise the parties of the right to counsel and shall appoint counsel as required. The parties shall be informed of the child's right to remain silent with respect to any allegation of delinquency. They shall also be informed of the contents of the petition and shall, except as provided herein,

1 be given an opportunity to admit or deny the allegations of the petition. Prior to the acceptance of
2 an admission of the allegations of the petition, the court shall (1) verify if the child was
3 previously convicted or adjudicated a youthful offender pursuant to Section 12-15-34(h) or (2)
4 rule on any motion of the prosecutor requesting the court to transfer the child for criminal
5 prosecution. The juvenile court shall not accept a plea of guilt or an admission to the allegations
6 of the petition in any case in which the child will be transferred for prosecution as an adult, either
7 by grant of the prosecutor's motion to transfer or pursuant to Section 12-15-34(h).

8 (d) All relevant and material evidence helpful in determining the need for detention or shelter
9 care may be admitted by the court even though not competent in a hearing on the petition.

10 (e) If the child is not released and no parent, guardian or other custodian has been notified
11 and none appeared or waived appearance at the hearing, upon the filing of an affidavit stating
12 these facts, the court shall rehear the matter within 24 hours, Saturdays, Sundays, and holidays
13 included.

14 (f) The juvenile court may use an audio-video communication system to facilitate
15 communication between the court and the child alleged to be a child in need of supervision or
16 delinquent during any pre-trial proceeding. The proceeding may be conducted using the system,
17 in which case the child shall not be required to be physically present in the courtroom. The
18 audio-video communication system shall enable the judge or referee to see and converse
19 simultaneously with the child and operate so that the child and his or her counsel can
20 communicate privately. The child and his or her counsel shall be physically present in the same
21 place during the audio-video communication. The signal of the audio-video communication
22 shall be transmitted live and shall be secure from interception through lawful means by anyone
23 other than the persons communicating.

1 **§ 12-15- . [DEP] Filing of petition and conduct of hearing as to necessity for continuation**
2 **of shelter care of a child alleged to be dependent.**

3 (a) When a child alleged to be dependent has been removed from the custody of the parent or
4 parents, guardian, or custodian and has not been returned to same, a hearing shall be held within
5 72 hours from the time of removal, Saturdays, Sundays and holidays included, to determine
6 whether continued shelter care is required.

7 (b) At the commencement of the 72-hour hearing, the court shall advise the parent or parents,
8 guardian, or custodian of the right to counsel and shall appoint counsel if requested. The court
9 also may appoint a guardian ad litem for a child who is a party to the proceeding if he or she has
10 no parent, guardian or custodian appearing on his or her behalf or their intrests conflict with that
11 of the child. It is the responsibility of the guardian ad litem to present evidence supporting the
12 best interests of the child. The court shall also appoint counsel for a minor parent in dependency
13 cases where the minor parent is unmarried or is married, widowed, widowed, or divorced and
14 under the age of 18 years or where counsel is otherwise required in the interests of justice. They
15 shall also be informed of the contents of the petition and shall, except as provided herein, be
16 given an opportunity to admit or deny the allegations of the petition.

17 (c) All relevant and material evidence helpful in determining the need for shelter care may be
18 admitted by the court, even though not admissible at subsequent hearings.

19 (d) If the child is not released and no parent, guardian or other custodian has been notified
20 and none appeared or waived appearance at the hearing, upon the filing of an affidavit stating
21 these facts, the court shall rehear the matter within 24 hours, Saturdays, Sundays, and holidays
22 excluded.

23 **§ 12-15-61. IDEL Definitions; facilities to be used for detention or shelter care of children**
24 **generally; when delinquent child, etc., may be detained in jail or other facility for**

1 **detention of adults; notification of court, etc., when child received at facility for**
2 **detention of adult offenders or persons charged with crimes; development of**
3 **statewide system; department to subsidize detention in regional facilities, may**
4 **contract for detention; transfer of child to detention facility, etc., when case**
5 **transferred from juvenile court for criminal prosecution.**

6 (a) **Definitions:** For the purpose of this section, the following terms shall have the following
7 meanings, respectively, unless the context clearly indicates otherwise:

8 (1) AVERAGE COST OF DETENTION. The average cost of detention of children as
9 determined from experience in Alabama and as computed by the department.

10 (2) DEPARTMENT. The Department of Youth Services.

11 (3) REGIONAL DETENTION FACILITY. Any facility owned or operated by the state,
12 any county or other legal entity licensed by and contracting with the department for the
13 detention of children.

14 (4) SECURE CUSTODY. As used to define a detention or correctional facility, this term
15 includes residential facilities with construction features designed to physically restrict the
16 movements and activities of persons in custody such as locked rooms and buildings
17 (including rooms and buildings that contain alarm devices that prevent departure), fences or
18 other physical structures.

19 (5) STATUS OFFENDER. A status offender is a child who has been charged with or
20 adjudicated for conduct that would not, under the law of the jurisdiction in which the offense
21 was committed, be a crime if committed by an adult. The following are examples of status
22 offenses:

23 a. Truancy.

24 b. Violations of municipal curfew ordinances.

1 c. Runaway.

2 d. Consumption of tobacco products.

3 e. Possession and/or consumption of alcohol.

4 (6) VALID COURT ORDER. A court order given by a court to a child who was brought
5 before the court and made subject to such order; and who received, before the issuance of the
6 order, the full due process rights guaranteed to such child by the Constitution of the United
7 States.

8 **(b) Children who must not be detained in secure custody:**

9 (1) **Status offenders.** Status offenders as defined in this Section shall not be detained or
10 confined in secure detention or correctional facilities. Short-term secure custody of accused
11 status offenders may be necessary, such as detention in a juvenile facility for a brief period of
12 time prior to formal juvenile court action, for investigative purposes, for identification
13 purposes, or for the purpose of allowing return to the juvenile's parents or guardian.
14 Detention for a brief period of time under juvenile court authority may also be necessary in
15 order to arrange for appropriate shelter care placement. A juvenile detention facility may
16 hold an accused status offender in a secure juvenile detention facility for up to 24 hours,
17 exclusive of weekends and legal holidays, prior to an initial court appearance and for an
18 additional 24 hours, exclusive of weekends and legal holidays, immediately following an
19 initial court appearance. Status offenders who fail to appear for court hearings remain status
20 offenders and cannot be upgraded to delinquent status for their failure to appear. Status
21 offenders cannot be securely detained after adjudication unless all of the conditions of the
22 valid court order exception are met.

23 (2) **Out-of-State Runaways.** Out-of-state runaways securely held beyond 24 hours
24 solely for the purpose of being returned to proper custody in another State in response to a

1 warrant or request from a jurisdiction in the other State or pursuant to court order must not be
2 detained in secure detention facilities.

3 (3) **Federal Wards.** Children who are aliens shall not be placed in secure detention
4 facilities. Federal wards held beyond 24 hours in State and local secure detention facilities
5 pursuant to a written contract or agreement with a Federal agency and for the specific
6 purpose of affecting a jurisdictional transfer, or appearance as a material witness, or for
7 return to their lawful residence or country of citizenship must be reported as violations of the
8 deinstitutionalization of status offender requirement.

9 (4) **Status Offenders Who Violate a Valid Court Order.** Adjudicated status offenders
10 found to have violated a valid court order may be securely detained in a juvenile detention
11 facility. Status offenders who violate a valid court order cannot be held in an adult jail or
12 lockup for any length of time. For this valid court order exception to apply, the following
13 actions must occur when a status offender is taken into custody for violating a valid court
14 order.

15 a. The juvenile detention facility must immediately notify the juvenile court intake or
16 probation officer that the juvenile is held in custody for violating a valid court order. The
17 notice shall include the date and time the child entered the juvenile detention facility;

18 b. Not later than 24 hours, exclusive of weekends and holidays, during which the
19 child is held in custody for violating a valid court order, an authorized representative of
20 the agency having custody or supervision of the child who violated the valid court order,
21 including a juvenile intake or probation officer, shall interview, in person, the child; and

22 c. Not later than 48 hours, exclusive of weekends and holidays, during which the
23 child is held;

1 1. The representative of the agency having custody or supervision of the child
2 who violated the valid court order, including the juvenile intake or probation officer,
3 must submit a written assessment report to the court regarding the immediate needs of
4 the child; and

5 2. The court shall conduct a hearing to determine whether there is reasonable
6 cause to believe that the child violated the order and the appropriate placement of the
7 child pending disposition of the alleged violation.

8 In the event the court orders the child detained pending the disposition, the
9 disposition hearing should be held as soon as possible while still allowing reasonable
10 time for the court to obtain additional information to enable it to make a disposition in the
11 best interest of the status offender.

12 **(c) Children who may be detained in secure custody.**

13 (1) Children who violate The Youth Handgun Safety Act, 18 U.S.C. Section 922(x),
14 which prohibits possession of a handgun by a minor under the age of 18, or who violate a
15 similar State law, can be placed in secure detention facilities.

16 (2) Children who violate the Interstate Compact on Juveniles, contained in Section 44-2-
17 1, et seq., may be placed in secure detention facilities.

18 **(d) Compliance with adult jail removal.** No child shall be detained or donvined in any jail
19 or lockup for adujlts. There are two exceptions to this requirement:

20 (1) Alleged delinquent offenders may be detained in a jail or lockup for adults for up to 6
21 hours while processing the child's case;

22 (2) Children transferred to adult court pursuant to Section 12-15-34 may be detained in a
23 jail or lockup for adults.

1 When a case is transferred to another court for criminal prosecution, the child shall be
2 transferred to the appropriate officer or detention facility in accordance with the law
3 governing the detention of the person charged with the crime.

4 Adult jails and lockups must not hold status offenders in a secure manner at any time. An
5 accused status offender may be detained in a nonsecure area of an adult jail or lockup for
6 processing while waiting transportation to a nonsecure shelter care facility or a juvenile
7 detention center or while waiting for release to a parent or guardian.

8 (e) **Compliance with separation.** Accused or adjudicated delinquent offenders or status
9 offenders must not have contact with adult inmates, including inmate trustees. Contact is defined
10 to include any physical or sustained sight and sound contact. Sight contact is defined as clear
11 visual contact between adult inmates and children within close proximity to each other. Sound
12 contact is defined as direct oral communication between adult inmates and juvenile offenders.

13 No juvenile offender shall enter under public authority, for any amount of time, into a secure
14 setting or secure section of an adult jail, lockup, or correctional facility as a disposition of an
15 offense or as a means of modifying their behavior (e.g., Shock Incarceration or Scared Straight)

16 ~~(bf)~~ Except as provided ~~in subsection (d)* of this section above,~~ in providing detention and
17 shelter or other care for children referred to or coming under the jurisdiction of the court, the
18 court shall utilize only such facilities as have been established, licensed, or approved by the
19 Department of Youth Services or Department of Human Resources for such purposes.

20 ~~(eg)~~ After October 1, 1991, the Department of Youth Services shall accept all children
21 committed to it within seven days of notice of disposition.

22 ~~.(d) A child alleged or adjudicated to be delinquent may be detained in a jail or other facility~~
23 ~~for the detention of adults for not more than 7 days pursuant to a court order and only if all of the~~
24 ~~following conditions are met: (i) the detention is approved by the official or officer in charge of~~

1 ~~the jail; (ii) the jail contains, at the time of the order, an available room in which the child can be~~
2 ~~detained separate and removed from all contact with adult inmates; and (iii) adequate supervision~~
3 ~~is available at the time detention in the jail is ordered. A child who has been transferred for~~
4 ~~criminal prosecution, or who is no longer subject to the juvenile court's jurisdiction shall be~~
5 ~~detained as an adult.~~

6 (eh) Except as provided ~~in subsection (d)*above~~, the official in charge of a jail or other
7 facility for the detention of ~~adult offenders~~adults or persons charged with crime shall inform the
8 court immediately when a child, who is or appears to be a child as defined by this chapter, is
9 received at the facility, ~~and The official~~ shall deliver the child to the court upon request or
10 transfer ~~him or her~~the child to a detention facility designated by the court.

11 (fi) The ~~department~~Department shall ~~develop prior to October 1, 1991,~~continue to develop
12 and implement a statewide system of regional detention centers which shall be licensed by the
13 Department ~~of Youth Services~~ for the detention of children.

14 (gj) The ~~department~~Department shall subsidize the detention of children in ~~the~~ regional
15 detention ~~facilities~~centers in an amount up to one half the average cost of detention, the amount
16 depending on the provision of funds by the Legislature to the ~~department~~Department. Regional
17 detention facilities may contract with the department or other counties for the detention of
18 children.

19 ~~(h) When a case is transferred to another court for criminal prosecution, the child shall be~~
20 ~~transferred to the appropriate officer or detention facility in accordance with the law governing~~
21 ~~the detention of the person charged with crime.~~

22 (ik) Any law enforcement official shall, at the direction of the juvenile court, provide security
23 and transportation services for the juvenile court in transporting children to and from secure
24 detention facilities.

1 §12-15-62. ~~[DEL]~~ Child to be released when full-time detention or shelter care not
2 required; conditions imposed upon release; amendment of conditions or return of
3 child to custody upon failure to conform to conditions imposed; ~~permanency~~
4 ~~hearing.~~

5 (a) When the court finds that ~~a child's~~ full-time detention or shelter care is not required for a
6 child, the court shall order ~~his~~ release of the child, and in so doing, may impose one or more of
7 the following conditions singly or in combination:

8 (1) Place the child in the custody of a parent, guardian, custodian or any other person
9 whom the court deems proper or place the child under the supervision of an agency or
10 organization agreeing to supervise ~~him or her~~ the child;

11 (2) Place restrictions on the ~~child's~~ travel, association or place of abode of the child
12 during the period of his or her release; or

13 (3) Impose any other condition deemed reasonably necessary and consistent with the
14 criteria for detaining children specified in Section 12-15-59, including a condition requiring
15 that the child return to custody as required.

16 (b) An order releasing a child on any conditions specified in subsection (a) of this section
17 may at any time be amended to impose additional or different conditions of release or to return
18 the child to custody for failure to conform to the conditions originally imposed.

19 ~~(c) Within 12 months of any court order placing a child in foster care the court shall hold a~~
20 ~~permanency hearing. The Department of Human Resources shall present to the court at such~~
21 ~~hearing a permanent plan for said child. If a permanent plan is not presented to the court at this~~
22 ~~hearing there shall be a rebuttable presumption that the child should be returned to the family.~~
23 ~~This provision is intended to insure that a permanent plan is prepared by the Department of~~
24 ~~Human Resources and presented to the court within 12 months of the placement of any child in~~

1 ~~foster care. The purpose of the permanency hearing shall be to determine the permanency plan~~
2 ~~for the child which may include whether, and, if applicable, when, the child shall be (i) returned~~
3 ~~to the parent, (ii) placed for adoption wherein the Department of Human Resources shall file a~~
4 ~~petition for termination of parental rights, or (iii) referred for legal custody. The permanency~~
5 ~~hearing shall determine whether the plan will include placement in another planned permanent~~
6 ~~living arrangement in cases where the department has documented to the court a compelling~~
7 ~~reason for determining that it would not be in the best interests of the child to return home, be~~
8 ~~referred for termination of parental rights, be placed for adoption, or be placed with a fit and~~
9 ~~willing relative, or with a legal custodian. For the purposes of this subsection only, a child shall~~
10 ~~be considered to have entered foster care on the earlier of (i) the date of the first judicial finding~~
11 ~~that the child has been subjected to abuse or neglect, or (ii) that date that is 60 days after the date~~
12 ~~on which the child is removed from the home.~~

13 **§ 12-15- . [DEP] Alleged dependent child to be released when continued shelter care not**
14 **required; conditions imposed upon release; amendment of conditions or return of**
15 **child to custody upon failure to conform to conditions imposed.**

16 (a) When the court finds that continued shelter care is not required for a child, the court shall
17 order release of the child, and in so doing, may impose one or more of the following conditions
18 singly or in combination:

19 (1) Return the child to the custody of the parent, guardian, or custodian and, if necessary,
20 place the child under the supervision of the Department of Human Resources.

21 (2) Place restrictions on travel, associations or living conditions of the child pending the
22 adjudicatory hearing.

23 (b) An order releasing a child on any conditions specified may at any time be amended to
24 impose additional or different conditions.

1 **§ 12-15-63. Notification of children, parents, guardians, etc., of right to counsel;**
2 **appointment of counsel by court.**

3 (a) In delinquency and in need of supervision cases, a child and his parents, guardian or
4 custodian shall be advised by the court or its representative at intake that the child has the right to
5 be represented at all stages of the proceedings by counsel retained by them or, if they are unable
6 to afford counsel, by counsel appointed by the court.

7 If counsel is not retained for the child in a proceeding in which there is a reasonable
8 likelihood such may result in a commitment to an institution in which the freedom of the child is
9 curtailed, counsel shall be appointed for the child.

10 The court may appoint counsel in any case when it deems such in the interest of justice.

11 (b) In dependency cases, the parents, guardian or custodian shall be informed of their right to
12 be represented by counsel and, upon request, counsel shall be appointed where the parties are
13 unable for financial reasons to retain their own.

14 The court shall also appoint counsel for the child in dependency cases where there is an
15 adverse interest between parent and child or where the parent is an unmarried minor or is
16 married, widowed, widowed or divorced and under the age of 18 years or counsel is otherwise
17 required in the interests of justice.

18 **§ 12-15-64. IDEL Suspension of proceedings and continuation of cases under terms and**
19 **conditions agreed to by parties.**

20 ~~At any time after the filing of a petition, the court may suspend proceedings and continue the~~
21 ~~case, under terms and conditions agreed to by all parties, pursuant to rules adopted by the~~
22 ~~Supreme Court.~~

23 (a) The court may suspend the proceedings and place the child under supervision, known as a
24 consent decree, as long as the following occurs:

1 (1) The consent decree shall be entered at any time after the filing of a delinquency or in
2 need of supervision petition and before the entry of an adjudication order;

3 (2) The child and his or her parents or custodian must be advised of their rights, including
4 the right to counsel, at this and other stages of the proceedings; and

5 (3) The consent decree shall contain terms and conditions negotiated with probation
6 services or the agency supervising the child and agreed to by all parties affected.

7 (b) Where the child objects to a consent decree, the court shall proceed to findings,
8 adjudication and disposition. Where the child does not object, but an objection is made by the
9 prosecutor after consultation with probation services, the court shall, after considering the objects
10 and reasons therefore, proceed to determine whether it is appropriate to enter a consent decree.

11 (c) A consent decree shall remain in force for six (6) months unless the child is discharged
12 sooner by the court. Upon application of probation services or other agency supervising the
13 child, made before the expiration of the six-month period, a consent decree may be extended by
14 the court for an additional six (6) months.

15 (d) If prior to discharge by the probation services or expiration of the consent decree, a new
16 delinquency or in need of supervision petition is filed against the child, or the child otherwise
17 fails to fulfill express terms and conditions of the decree, the petition under which the child was
18 continued under supervision may be reinstated after a hearing and the case may proceed to
19 adjudication.

20 (e) Upon satisfaction of the conditions of the consent decree or upon the child being
21 otherwise discharged by the court, the petition shall be dismissed with prejudice.

22 **§ 12-15-65. [GP] Conduct of hearings ~~and disposition of cases generally; special procedure~~**
23 **~~for possible multiple needs child; reasonable efforts~~generally.**